

SENATE BILL 327

Unofficial Copy
M4

2004 Regular Session
4r2205
CF 4r1969

By: **Senators Dyson and Middleton**

Introduced and read first time: February 2, 2004

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Easement**
3 **Termination**

4 FOR the purpose of requiring that the Maryland Agricultural Land Preservation
5 Foundation provide a landowner with the opportunity for a hearing before
6 deciding on a request for termination of an agricultural land preservation
7 easement whose purchase is approved by the Board of Public Works on or before
8 a certain date; allowing a landowner to appeal any Foundation denial of a
9 request for a termination directly to the circuit court of the county where the
10 land is located; requiring that the Foundation deposit certain money in a certain
11 fund if an easement is terminated; requiring that an appeal of a denial of a
12 termination be made on the record in accordance with certain State law;
13 requiring that agricultural land preservation easements whose purchase is
14 approved by the Board of Public Works on or after a certain date be held by the
15 Foundation in perpetuity; making stylistic changes; and generally relating to
16 the termination of agricultural land preservation easements.

17 BY repealing and reenacting, with amendments,
18 Article - Agriculture
19 Section 2-514
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2003 Supplement)

22 BY adding to
23 Article - Agriculture
24 Section 2-514.1
25 Annotated Code of Maryland
26 (1999 Replacement Volume and 2003 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Agriculture**

2 2-514.

3 (a) It is the intent of the General Assembly that [the] ANY easement
4 [purchased under this subtitle] WHOSE PURCHASE IS APPROVED BY THE BOARD OF
5 PUBLIC WORKS ON OR BEFORE SEPTEMBER 30, 2004, be held by the Foundation for as
6 long as profitable farming is feasible on the land under easement, and an easement
7 may be terminated only in the manner and at the time specified in this section.

8 (b) At any time after 25 years from the date of purchase of an easement, the
9 landowner may request that the easement be reviewed for possible termination of the
10 easement.

11 (c) (1) Upon a request for review of an easement for termination, an inquiry
12 shall be conducted by the Foundation to determine the feasibility of profitable
13 farming on the subject land. [The inquiry shall be concluded and a decision reached
14 by the Foundation within 180 days after the request for termination and]

15 (2) THE INQUIRY shall include:

16 [(1)] (I) On-site inspection of the subject land; and

17 [(2)] (II) A public hearing conducted by the Foundation board within the
18 county containing the subject land after adequate public notice.

19 (3) THE INQUIRY SHALL BE CONCLUDED AND A DECISION REACHED BY
20 THE FOUNDATION WITHIN 180 DAYS AFTER THE REQUEST FOR TERMINATION,
21 UNLESS THE LANDOWNER REQUESTS A HEARING UNDER SUBSECTION (H) OF THIS
22 SECTION.

23 (d) An easement may be terminated only with the approval of the governing
24 body of the county containing the subject land. In deciding whether to approve the
25 request for termination, the county governing body shall receive the recommendation
26 of the county agricultural preservation advisory board established under § 2-504.1 of
27 this subtitle. The decision of the county governing body shall be made after the public
28 hearing required in paragraph (c). The county governing body shall notify the
29 Foundation of its decision within 30 days after the conclusion of the public hearing
30 required in paragraph (c).

31 (e) Upon the affirmative vote of a majority of the Foundation members
32 at-large, and upon the approval of the Secretary and the State Treasurer, the request
33 for termination shall be approved, and the landowner shall be notified.

34 (f) (1) If the request for termination is approved, an appraisal of the subject
35 land shall be ordered by the Foundation at the expense of the landowner requesting
36 termination of the easement.

37 (2) (i) No more than 180 days following the appraisal required under
38 paragraph (1) of this subsection, the landowner may repurchase the easement by

1 paying to the Foundation the difference between the fair market value and the
2 agricultural value of the subject land, as determined by the appraisal.

3 (ii) For purposes of this paragraph, the agricultural value is the
4 price as of the valuation date which a vendor, willing but not obligated to sell, would
5 accept, and which a purchaser, willing but not obligated to buy, would pay for a farm
6 unit with land comparable in quality and composition to the property being
7 appraised, but located in the nearest location where profitable farming is feasible.

8 (iii) 1. In the case of the termination of an easement that was
9 originally purchased under a matching allotted purchase, the Foundation shall
10 distribute to the contributing county a portion of the repurchase payment received
11 under subparagraph (i) of this paragraph that is equal to the percentage of the
12 original easement purchase price contributed by the county.

13 2. A. From the funds distributed to a county under this
14 subparagraph, the county shall deposit in the county's special account for its
15 agricultural land preservation program an amount that is at least equal to the
16 percentage of the original easement purchase price that was paid out of the special
17 account.

18 B. If any of the funds deposited in the county's special
19 account have not been expended or committed within 3 years from the date of deposit
20 into the special account, the county collector shall remit those funds to the
21 Comptroller for deposit in the Maryland Agricultural Land Preservation Fund as
22 provided in § 13-306(c) of the Tax - Property Article.

23 3. The county shall deposit the balance of the funds
24 distributed to it under this subparagraph in the county's general fund.

25 4. IF AN EASEMENT IS TERMINATED, THE FOUNDATION
26 SHALL DEPOSIT ITS PORTION OF THE REPURCHASE PAYMENT IN THE MARYLAND
27 AGRICULTURAL LAND PRESERVATION FUND AS PROVIDED UNDER § 2-505 OF THE
28 AGRICULTURE ARTICLE.

29 (g) If the request for termination is denied, or if the landowner fails to
30 repurchase the easement within 180 days of the appraisal, the landowner may not
31 again request termination of the easement until five years after his last request for
32 termination.

33 (H) (1) THIS SUBSECTION APPLIES ONLY TO EASEMENTS THAT THE
34 FOUNDATION ACQUIRES ON OR BEFORE SEPTEMBER 30, 2004.

35 (2) BEFORE DECIDING ON A REQUEST FOR TERMINATION OF AN
36 EASEMENT, THE FOUNDATION SHALL PROVIDE A LANDOWNER WITH THE
37 OPPORTUNITY FOR A HEARING.

38 (3) NOTWITHSTANDING §§ 2-401 THROUGH 2-405 OF THIS TITLE, THE
39 LANDOWNER MAY APPEAL ANY FOUNDATION DENIAL DIRECTLY TO THE CIRCUIT
40 COURT OF THE COUNTY WHERE THE LAND IS LOCATED.

1 (4) THE CIRCUIT COURT SHALL HEAR AND DETERMINE THE APPEAL ON
2 THE RECORD MADE IN ACCORDANCE WITH § 10-222 OF THE STATE GOVERNMENT
3 ARTICLE.

4 2-514.1.

5 AN EASEMENT WHOSE PURCHASE IS APPROVED BY THE BOARD OF PUBLIC
6 WORKS ON OR AFTER OCTOBER 1, 2004, SHALL BE HELD BY THE FOUNDATION IN
7 PERPETUITY.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2004.